REMARKS

Reconsideration of this application is respectfully requested.

The Examiner's attention is drawn to Applicant's first filed Information Disclosure Citation form PTO-1449 listing references cited in the International Search Report, a copy of which references are supposed to have been furnished via WIPO. Another copy of this form PTO-1449 is attached for the Examiner's convenience. A fully initialed copy of same is requested to indicate official consideration and citation. Under the circumstances, no additional IDS fee is believed to be required, however, if such fee is required, authority is hereby given to charge such fee to our account No. 14.-1140.

It also appears that Applicant's August 16, 1999 substitute preliminary amendment transmitted by facsimile was not entered. For the Examiner's convenience, a copy of the substitute amendment is attached together with a copy of the undersigned is facsimile receipt showing that it was successfully and timely received by the USPTO. In any event, so as to clarify the record, such amendments have been included in the above amendment to ensure proper entry into this file.

The rejection of claims 11-17 under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter is respectfully traversed.

The Examiner's allegation that the "claims do not recite descriptive material per se" is not understood. These claims clearly do include "descriptive material".

Similarly, the Examiner's allegation that the "specification does not disclose specific hardware or software" is also not understood. The exemplary embodiment has been described as using personal computers, data busses and other conventional hardware components. Specific reference to specific exemplary software programming languages are noted throughout the specification (e.g. see page 15f or a stated preference of

operating systems supporting multiple threads). An exemplary specific data structure for a service level agreement (SLA) is specifically given at page 19. Furthermore, specific "code segments" are included for some parts of the exemplary system (e.g. see page 24, lines 20-31 and numbered code segments 1-5 appearing on pages 26-28).

In so far as the Examiner relies upon prior case law, he does not appear to have taken into account more recent case law (e.g. State Street).

In any event, claims 11-17 have been amended so as to be even more specifically directed to statutory apparatus. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this ground of rejection of claims 11-17.

In response to the Examiner's rejection of claims 1, 11, 12, 19, 24 and 25 under 35 U.S.C. §112, second paragraph, these claims have amended above so as to obviate each stated ground of objection.

The rejection of claim 21 under 35 U.S.C. §102 as allegedly anticipated by McAtee '320 is respectfully traversed.

McAtee shows a limited type of automated workflow control. The controller runs works in progress and schedules software agents to carry them out. As best presently understood, the controller allocates and schedules the works to be done. Each software agent runs a particular task, which it might carry out itself or just trigger, but the overall workflow is controlled centrally.

Applicant's invention, meanwhile, is based on service level agreements (SLAs) which have been pre-negotiated between individual, distributed agents. The allocation of tasks is based on these SLAs rather than on real availability of resource and the system can provide a very quick response when a service request is made, speeding up workflow control. The data in the SLAs can be modified in accordance with historical actual performance data to improve accuracy. SLAs can be designed to "time out" so that out of date arrangements are not maintained. Groups of distributed agents can have pre-

negotiated SLAs amongst themselves, creating virtual organizations. This gives a way of controlling granularity in a distributed system of many individual agents, making task allocation faster.

The rejection of claims 1-15, 18-20 and 22-27 under 35 U.S.C. §103 as allegedly "obvious" over McAtee '320 in view of Wong is also respectfully traversed.

As noted above, the primary reference, McAtee '320, has fundamental deficiencies with respect to method claim 21. Those same deficiencies apply as well to independent claims 1, 11, and 23.

McAtee does not show Applicant's claimed extra level of control and flexibility as noted above. Wong (and Ketchpel, see below), as far as presently understood is merely background material on knowledge based systems and agents. Merely applying either of them to McAtee would not arrive at the claimed invention, or point a reader in the right direction, since McAtee is only a very limited step towards automating workflow. The change in performance offered by working to predefined SLAs amongst distributed agents could never be achieved by starting with McAtee because the workflow control in McAtee is strictly centralized and hierarchical.

The rejection of claims 16 and 17 under 35 U.S.C. §103 as allegedly "obvious" over a combination of McAtee '320 and Ketchpel is also respectfully traversed.

Some fundamental deficiencies of the primary reference have already been noted above—and previous comments with respect to the secondary Wong reference also apply to Ketchpel—especially with respect to claims 16 and 17.

With respect to both of the obviousness-type rejections, the Examiner has alleged a "motivation" for making a combination without even alleging any particular "suggestion" for such combination to be found within the four corners of any of the cited references. Instead, the Examiner seems to have used hindsight to come up with an alleged "motivation" that does not have any real basis in fact—especially when viewed

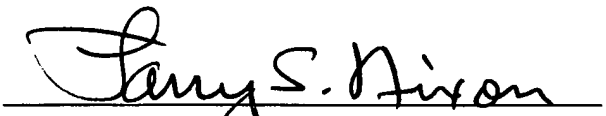
from the proper position of a person having only ordinary skill in the art in 1996 and also not having any knowledge of the Applicant's invention. Under those conditions, why would those having only ordinary skill in the art find it "obvious" pick these two particular secondary references and then to make selective combinations and modifications of the primary reference --as now suggested by the Examiner with respect to different groups of claims?

In any event, as noted above, the primary reference to McAtee is itself fundamentally deficient. To arrive at the Applicant's claimed system, one would effectively have to ignore the express teachings of McAtee so as to re-create the McAtee system in a whole new guise having little similarity to that which is actually taught by McAtee.

Accordingly, this entire application is now believed to be in allowable condition and a formal notice to that effect is respectfully solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

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